

House Study Bill 226 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON SANDS)

A BILL FOR

1 An Act relating to state taxation by amending the sales and use
2 tax and excise tax imposed on certain machinery, equipment,
3 attachments, and replacement parts used in construction.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 423.3, subsections 2, 37, and 85, Code
2 2015, are amended to read as follows:

3 2. The sales price of sales for resale of tangible personal
4 property or taxable services, or for resale of tangible
5 personal property in connection with the furnishing of taxable
6 services except for ~~sales, other than leases or rentals, which~~
7 ~~are sales of machinery, equipment, attachments, and replacement~~
8 ~~parts specifically enumerated in subsection 37 and used in the~~
9 ~~manner described in subsection 37 or the purchase of tangible~~
10 personal property, the leasing or rental of which is exempted
11 from tax by subsection 49.

12 37. The sales price of services on or connected with
13 new construction, reconstruction, alteration, expansion,
14 remodeling, or the services of a general building contractor,
15 architect, or engineer. The exemption in this subsection
16 also applies to the sales price on the lease or rental of
17 all machinery, equipment, and replacement parts ~~directly and~~
18 primarily used by owners, contractors, subcontractors, and
19 builders for new construction, reconstruction, alteration,
20 expansion, or remodeling of real property or structures and of
21 all machinery, equipment, and replacement parts which improve
22 the performance, safety, operation, or efficiency of the
23 machinery, equipment, and replacement parts so used.

24 85. The sales price from the sale of the following items
25 to a contractor as defined in section 423D.1: self-propelled
26 building equipment, pile drivers, motorized scaffolding, or
27 attachments customarily drawn or attached to self-propelled
28 building equipment, pile drivers, and motorized scaffolding,
29 including auxiliary attachments which improve the performance,
30 safety, operation, or efficiency of the equipment, and
31 replacement parts ~~and are directly and primarily used by~~
32 ~~contractors, subcontractors, and builders for new construction,~~
33 ~~reconstruction, alterations, expansion, or remodeling of real~~
34 ~~property or structures.~~

35 Sec. 2. Section 423D.1, subsection 1, paragraph b, Code

1 2015, is amended by striking the paragraph and inserting in
2 lieu thereof the following:

3 *b. "Contractor"* includes a person primarily engaged in the
4 trade or business of acting as a contractor, subcontractor, or
5 builder of or on real property or structures owned by another
6 person.

7 Sec. 3. Section 423D.1, subsection 1, paragraph d, Code
8 2015, is amended to read as follows:

9 *d. "Equipment"* means self-propelled building equipment,
10 pile drivers, and motorized scaffolding, including auxiliary
11 attachments which improve the performance, safety, operation,
12 or efficiency of the equipment, and replacement parts ~~and are~~
13 ~~directly and primarily used by contractors, subcontractors, and~~
14 ~~builders for new construction, reconstruction, alterations,~~
15 ~~expansion, or remodeling of real property or structures.~~

16 Sec. 4. Section 423D.2, Code 2015, is amended by striking
17 the section and inserting in lieu thereof the following:

18 **423D.2 Tax imposed.**

19 1. A tax of five percent is imposed on the following:

20 *a.* The sales price of all equipment sold to a contractor in
21 the state of Iowa.

22 *b.* The purchase price of all equipment used by a contractor
23 in the state of Iowa.

24 2. This tax shall be collected and paid over to the
25 department by any retailer, retailer maintaining a place of
26 business in this state, or user who would be responsible for
27 the collection and payment of the tax if it were a sales or use
28 tax imposed under chapter 423.

29 Sec. 5. Section 423D.3, Code 2015, is amended by striking
30 the section and inserting in lieu thereof the following:

31 **423D.3 Exemptions.**

32 1. There is exempted from the provisions of this chapter
33 and from the computation of the amount of tax imposed by this
34 chapter the following:

35 *a.* The sales price of sales for resale of equipment to a

1 contractor who is also a retailer.

2 *b.* The sales price on the lease or rental of equipment to a
3 contractor for primary use in construction.

4 2. There is exempted from the computation of the amount
5 of tax imposed on the use of equipment in section 423D.2,
6 subsection 1, paragraph "b", equipment the sales price from
7 the sale of which is required to be included in the measure of
8 the tax imposed on the sale of equipment in section 423D.2,
9 subsection 1, paragraph "a", if the tax has been paid to the
10 department or the retailer.

11 Sec. 6. NEW SECTION. 423D.3A Taxation in another state.

12 If any person who causes equipment to be brought into this
13 state or who uses equipment in this state has already paid
14 a tax in another state in respect to the sale or use of the
15 equipment, or an occupation tax in respect to the equipment,
16 in an amount less than the tax imposed by this chapter, the
17 provisions of this chapter shall apply, but only at a rate
18 measured by the difference between the rate fixed by this
19 chapter and the rate by which the previous tax on the sale or
20 use, or the occupation tax, was computed. A tax is not due in
21 this state on the equipment if the tax imposed and paid in the
22 other state is equal to or more than the tax imposed by this
23 chapter.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill relates to the sales and use tax, and equipment
28 tax imposed on certain machinery, equipment, attachments, and
29 replacement parts used in construction.

30 BACKGROUND. The furnishing of services connected to
31 construction are generally exempt from the sales and use tax.
32 Instead, owners, contractors, subcontractors, and builders are
33 treated as consumers or users for purposes of the sales and
34 use tax and pay tax on the building materials, supplies, and
35 equipment they purchase and use in furnishing construction

1 services, except under certain circumstances, two of which are
2 addressed in the bill.

3 SALES AND USE TAX ON CONSTRUCTION EQUIPMENT. Under
4 current law in Code section 423.3(37), the lease or rental
5 of machinery, equipment, and replacement parts (construction
6 equipment) directly and primarily used in specified
7 construction services by an owner, contractor, subcontractor,
8 or builder is exempt from the sales and use tax. The bill
9 strikes the requirement that the construction equipment be used
10 directly in the construction service in order to qualify for
11 the exemption.

12 Also under current law in Code section 423.3(2), the sale
13 of tangible personal property for subsequent resale, lease, or
14 rental is exempt from the sales and use tax (sale-for-resale
15 exemption). However, the sale of construction equipment for
16 a subsequent lease or rental that will qualify for the tax
17 exemption in Code section 423.3(37), as described above, does
18 not qualify for the sale-for-resale exemption. The bill
19 strikes this provision. The sale for subsequent lease or
20 rental of construction equipment primarily used in a specified
21 construction service by owners, contractors, subcontractors,
22 and builders will now be exempt from the sales and use tax.

23 EXCISE TAX ON HEAVY CONSTRUCTION EQUIPMENT. Under current
24 law in Code section 423.3(85), the sale of self-propelled
25 building equipment, pile drivers, motorized scaffolding, and
26 attachments (heavy construction equipment) that are directly
27 and primarily used by a contractor, subcontractor, or builder
28 in specified construction services are exempt from the sales
29 and use tax. Instead, this heavy construction equipment is
30 subject to an excise tax of 5 percent under Code chapter 423D
31 (equipment tax) imposed on all equipment sold or used in Iowa.

32 The bill amends the sales and use tax exemption in Code
33 section 423.3(85) to remove the requirement that the heavy
34 construction equipment be directly and primarily used by
35 a contractor, subcontractor, or builder in the specified

1 construction service to qualify for the exemption. A sale of
2 heavy construction equipment will now qualify for the sales and
3 use tax exemption in Code section 423.3(85) if it is sold to a
4 contractor, as defined under the equipment tax and as amended
5 in the bill.

6 The bill makes several changes to the equipment tax in Code
7 chapter 423D. The definition of "contractor" is amended to
8 mean a person primarily engaged in the trade or business of
9 acting as a contractor, subcontractor, or builder of or on real
10 property or structures owned by another person. The definition
11 of "equipment" is amended to remove the requirement that it be
12 directly and primarily used by a contractor, subcontractor,
13 or builder in specified construction services in order to be
14 subject to the equipment tax.

15 The bill imposes the equipment tax on all equipment sold
16 or used by a contractor in Iowa. The bill exempts from the
17 equipment tax the sale for resale of equipment to a contractor
18 who is also a retailer, and the lease or rental of equipment to
19 a contractor for primary use in construction. The bill also
20 exempts the use of equipment from the tax if the equipment
21 tax has already been paid by the contractor on the purchase
22 of that equipment. Finally, the bill provides a credit equal
23 to the amount of similar tax paid in another state by the
24 same taxpayer relating to equipment subject to the equipment
25 tax in Iowa. However, the credit cannot exceed the amount of
26 equipment tax due in Iowa on the equipment.